

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
SCOTT D. REITER)	File No. 0002727118
)	
Demonstration of Substantial Service for PCS)	
Station WPTB505)	
)	
)	
)	

ORDER

Adopted: April 12, 2010**Released: April 16, 2010**

By the Commission:

I. INTRODUCTION

1. This item denies an Application for Review related to the automatic termination of a Personal Communications Services (PCS) license for failure to show substantial service.¹ As explained below, we find that construction of a single base station coupled with the use of four handsets, in an area already served by four other wireless providers, does not constitute “substantial service” or a “niche service.” Accordingly, this item affirms the Wireless Telecommunications Bureau’s (Bureau) Mobility Division’s (Division) determination that the license previously authorized to Scott D. Reiter (Reiter) automatically terminated on the date of the licensee’s construction deadline for failure to meet the applicable construction requirements.

II. BACKGROUND

2. *Broadband PCS Construction Requirements.* In 1993, the Commission adopted specific construction requirements for broadband PCS licensees “to ensure efficient spectrum utilization and service to the public.”² At that time, the Commission required all PCS licensees to offer service to one-third of the population of their service area within five years of initial license grant, two-thirds of the population in their service area within seven years, and 90 percent of the population within 10 years.³ In 1994, the Commission relaxed its broadband PCS construction requirements. Specifically, the Commission eliminated the multi-stage requirements for 10 MHz PCS licensees in favor of a single construction requirement. Licensees of 10 MHz PCS licenses are thus required to “serve with a signal level sufficient to provide adequate service to at least one-quarter of the population in the licensed area within five years of being licensed, or make a showing of substantial service in their licensed area within five years of being licensed.”⁴ The Commission defines “substantial service” as “service which is sound,

¹ Application for Review (filed June 8, 2007) (AFR), Supplement (filed July 11, 2007) (AFR Supplement).

² Amendment of the Commission’s Rules to Establish New Personal Communications Services, *Memorandum Opinion and Order*, 9 FCC Rcd 4957, 5015 ¶ 147 (1994) (*PCS MO&O*).

³ *PCS MO&O*, 9 FCC Rcd at 5015, ¶ 147.

⁴ 47 C.F.R. § 24.203(b).

favorable, and substantially above a level of mediocre service which just might minimally warrant renewal.”⁵

3. When adopting substantial service as an option for 10 MHz (and subsequently 15 MHz) broadband PCS licenses, the Commission indicated that the smaller BTA licenses could be used to provide service to geographic areas or populations that 30 MHz licensees which cover larger Major Trading Areas (MTAs) might be less likely to cover.⁶ By relaxing the PCS construction requirements, the Commission hoped it would “make these licenses more attractive to applicants intending to provide residential, cutting-edge niche services or services to business and educational campuses where the population may be small except during business or school hours.”⁷ In addition, the relaxed construction requirements were intended to “promote diversity in [the] provision of PCS services.”⁸

4. *Substantial Service Showing.* On August 22, 2001, the Commission granted Reiter a 10 MHz C-Block PCS license for Basic Trading Area (BTA) 359 in Portsmouth, Ohio under call sign WPTB505 (License). The License had a five-year construction deadline of August 22, 2006 and a license expiration date of August 22, 2011. On August 25, 2006, Reiter submitted his construction notification purporting to demonstrate substantial service (Showing).⁹ On November 11, 2006, the Division sent Reiter a Notice of Return, requesting that he submit the requisite map(s) showing compliance with the construction requirements of section 24.203(b).¹⁰ Reiter supplemented his Showing on January 3 and 4, 2007 by submitting four coverage maps and a Supplement to Public Interest Exhibit.¹¹

5. In his Showing Supplement, Reiter stated that 11.4 percent of the Portsmouth BTA (10,636 people) was capable of receiving reliable service from the single base station constructed in his system.¹² Reiter further stated that the Portsmouth BTA consisted of two counties with a total population of 93,287 – Lewis (population 14,902) and Scioto (population 79,195).¹³ Reiter described the BTA as consisting of two of the “most depressed rural counties in the United States.”¹⁴ Portsmouth, the largest city in the BTA, had a population of 20,909 or 22 percent of the BTA.¹⁵

6. Reiter stated that after studying the market at great length he determined that a “conventional build-out and mobile operation was not viable” and that the market presented “formidable challenges” for

⁵ 47 C.F.R. § 24.203(d).

⁶ See *PCS MO&O*, 9 FCC Rcd at 5019 ¶ 155.

⁷ *PCS MO&O*, 9 FCC Rcd at 5019 ¶ 155.

⁸ *PCS MO&O*, 9 FCC Rcd at 5019 ¶ 156.

⁹ See *Demonstration of Substantial Service*, FCC File No. 0002727118 (filed Aug. 25, 2006) (Showing), Supplement to Public Interest Exhibit (filed Jan. 3, 2007 and Jan. 4, 2007) (Showing Supplement). Licensees are required to submit a construction notification within 15 days of the construction deadline. 47 C.F.R. § 1.946(d).

¹⁰ Notice of Return dated Nov. 3, 2006.

¹¹ See generally, Showing Supplement.

¹² Showing Supplement at 1.

¹³ Showing at 1.

¹⁴ Showing at 1. We note that based on the 2000 Census, Scioto, Ohio, the county in which Portsmouth is located, has a population density of 129 persons per square mile, which does not fall within the Commission’s baseline definition of what constitutes a “rural area.” The Commission’s baseline definition of “rural area” is a county with a population density of 100 persons per square mile or less. See *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services*, *Report and Order*, 19 FCC Rcd 19078, at 19087- 19088, ¶ 11 (2004).

¹⁵ Showing at 1. Figures are based on 2000 Census data.

another mobile service provider.¹⁶ As a result, Reiter stated that he decided to address a “niche” in the market by providing free local phone service to the residents of the Scioto County Homeless Shelter (Shelter) located in Portsmouth.¹⁷ Reiter stated that he had constructed a single base station using a single UTStarcom Internet Protocol Digital Subscriber Line Access Multiplexer unit and four handsets that were made available on an “as needed” basis to the Shelter’s residents, which numbered up to 200 residents annually.¹⁸ Reiter also stated that the single base station covered approximately 11.4 percent of the population of the BTA.¹⁹ Based on this coverage, Reiter stated that he “should therefore be deemed to have met [his] five-year construction requirement.”²⁰

7. *Division Decision.* On May 9, 2007, the Division rejected Reiter’s Showing.²¹ The Division determined that Reiter failed to meet the substantial service requirement because his conventional two-way mobile phone service was not a niche service under the PCS rules. The Division found that Reiter failed to demonstrate how his system – consisting of a single base station and four activated handsets – was service that was “sound, favorable, and substantially above a level of mediocre service which might just minimally warrant renewal.”²² In addition, the Division noted that Reiter’s planned future construction was not material to his showing.²³ Accordingly, the Division concluded that pursuant to sections 1.946(c) and 1.955(a)(2) of the Commission’s rules, 47 C.F.R. §§ 1.946(c), 1.955(a)(2), the License automatically terminated on August 22, 2006 for failure to meet the construction requirements.²⁴

III. DISCUSSION

8. *Introduction.* We deny Reiter’s Application for Review because we agree with the Division’s determination that Reiter failed to adequately demonstrate substantial service and thus his license terminated automatically. We find that Reiter’s service did not constitute a niche service for purposes of satisfying the substantial service requirement. In addition, we find that coverage of 11.4 percent of the Portsmouth BTA coupled with service to four handsets does not constitute “service that is sound, favorable, and substantially above a level of mediocre service that would barely warrant renewal.” Finally, we do not reach the question of whether the substantial service standard should be different when

¹⁶ Showing at 1. Reiter describes the BTA as consisting of two of the “most depressed rural counties in the United States” and that it is “very much in the backwater of the Rust Belt.” Further, Reiter cites declining population figures and the overall socioeconomic status of Portsmouth, Ohio as reasons for Portsmouth being “well below average on positive indicators and well above average on negative [indicators].”

¹⁷ *Id.* at 2 – 3.

¹⁸ Showing Supplement at 1 – 2.

¹⁹ *Id.* at 1. Pending a favorable determination by the Commission, Reiter stated that he intended to construct a second cell site, which would increase coverage to 15 percent of the BTA population. *Id.* at 1. Reiter also stated that he intended to expand service on a commercial basis (with the construction of three additional cell sites) and provide rate plans tailored to the “working poor” who would not otherwise qualify for existing wireless service. *Id.* at 2.

²⁰ Showing at 4.

²¹ Letter from Thomas Derenge, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, to Scott D. Reiter, dated May 9, 2007 (Division Decision).

²² Division Decision at 3.

²³ Division Decision at 3. The Division also concluded that Reiter had failed to justify a waiver of the PCS construction requirements and denied his request for waiver. *Id.* We note that we need not reach the issue of whether the waiver request was appropriately denied because Reiter did not raise the denial of his waiver request as an issue in the AFR.

²⁴ *Id.*

applied to the provision of private mobile radio service (PMRS), because Reiter's service does not qualify as PMRS.

9. *Niche Service.* Reiter's conventional, two-way mobile service does not amount to a "residential, cutting-edge niche" service for purposes of satisfying the substantial service requirement. Reiter argues that he is serving a niche market (the residents of the Scioto County Homeless Shelter) and thus should be deemed to have met the substantial service requirement.²⁵ We disagree. When the Commission adopted the substantial service standard for broadband PCS services, it provided two examples of what might constitute substantial service: "residential, *cutting-edge* niche services *or* services to business and educational campuses where the population may be small except during business or school hours."²⁶ The Commission did not state that service to *any* niche would be sufficient. As discussed below, Reiter's provision of conventional two-way mobile voice service does not amount to a cutting-edge niche service.

10. In *Cingular Interactive, L.P. (Cingular)*,²⁷ the Bureau addressed the substantial service showing submitted by Cingular for 39 of its 85 900 MHz Specialized Mobile Radio Service (900 MHz SMR) licenses.²⁸ Cingular filed its substantial service showing in September, 1999, more than three years prior to the applicable construction deadline, as the Bureau had extended the construction deadline for 900 MHz SMR MTA licensees until December 31, 2002.²⁹ Although the Bureau rejected Cingular's substantial service showing as filed, on its own motion it issued a declaratory ruling intended to provide guidance regarding the meaning of substantial service, particularly given the substantial time Cingular had left to meet its construction obligations. The Bureau concluded that Cingular would be providing substantial service in each of its licensed market areas if, by the applicable 2002 construction deadline, it achieved the level of construction detailed in the declaratory ruling. Specifically, the Bureau found that Cingular's actual number of end users,³⁰ existing population coverage in some markets,³¹ existing base station buildout,³² and technologically sophisticated service offerings – when combined with Cingular's proposed additional buildout³³ – would constitute substantial service for each of its licenses.³⁴ The

²⁵ AFR at 6.

²⁶ *PCS MO&O*, 9 FCC Rcd at 5015, ¶ 155 (*emphasis added*).

²⁷ *Cingular Interactive, L.P.; Showing of Substantial Service Pursuant to Section 90.665(c), Order*, 16 FCC Rcd 19200 (WTB 2001) (*Cingular*).

²⁸ Section 90.665(c) of the Commission's rules, 47 C.F.R. § 90.665(c), requires each MTA-based 900 MHz SMR licensee to construct and put into operation a sufficient number of base stations for each license to provide coverage to at least one-third of the population of that MTA within three years of the original license grant and two-thirds of the population within five years. In the alternative, a licensee may elect to demonstrate that it is providing substantial service to the population of the MTA five years from original license grant. 47 C.F.R. § 90.665(c).

²⁹ See *FCI 900, Inc. Expedited Request for a 3-year Extension of 900 MHz Band Construction Requirements and Neoworld License Holdings, Inc. Request for Waiver of 900 MHz Construction Requirements and Petition for Declaratory Ruling, Memorandum Opinion and Order*, 16 FCC Rcd 11072 (WTB 2001).

³⁰ At the time of filing its substantial service showing, Cingular had over 600,000 end users and estimated that 40,000 more new users would be added to the system each month. *Cingular*, 16 FCC Rcd at 19202, ¶ 4.

³¹ *Id.* at 19204, ¶ 9. Of the 27 MTAs at issue in the case, Cingular provided population coverage of between 33 and 65 percent in 21 of the markets (where it held 31 licenses). In the remaining six markets, where it held eight licenses, Cingular stated that it would likely cover at least 30 percent of the population by the construction deadline. *Id.*

³² Cingular's nationwide network included more than 2,000 constructed and operational base stations. In addition, Cingular planned to construct an additional 350 base stations. *Cingular*, 16 FCC Rcd at 19202, ¶ 4.

³³ See *supra* n. 30 and 31.

³⁴ *Cingular*, 16 FCC Rcd at 19203, ¶ 7.

Bureau found that Cingular's "technologically sophisticated" service offerings would lend support to an eventual finding of substantial service and such a finding would be consistent with the Commission's desire to provide flexibility to licensees choosing to offer "cutting-edge niche services."³⁵

11. The licensee in *Cingular* had constructed a nationwide wireless data network which was used by its business and public sector customers as a platform for computer-aided dispatch, remote database access, and telemetry, among other uses. In addition, public safety entities, including law enforcement, used the data network for rapid transmission of critical information to employees in the field. The data network was also capable of providing Internet access, email, instant messaging, mobile communications to the hearing impaired, and a bundled advanced messaging service which included an interactive pager, applications software and Cingular's radio communications services.³⁶ Unlike the licensee in *Cingular*, Reiter is offering standard PCS service. As the Division appropriately stated in its letter, "Reiter elected to provide a conventional two-way mobile phone service that is not unlike what other broadband PCS licensees provide except that in Reiter's case, local phone service is free using the four handsets that are in service."³⁷ We agree with the Division's determination that such conventional service does not rise to the level of a "cutting-edge niche service" for purposes of satisfying the substantial service requirement.

12. We also do not find that Reiter's service meets with the second of the Commission's two examples for the provision of substantial service. Reiter argues that like the "small, isolated college" campus in *Chasetel Licensee Corp.*,³⁸ "[h]omeless shelters and associated agencies serving the indigent" are "specialized niches which might find themselves ignored by conventional CMRS operations."³⁹ Accordingly, Reiter argues that its existing service to the Shelter meets the substantial service requirement. Again, we disagree.

13. In *Chasetel*, the licensee of a 15 MHz broadband PCS license sought to serve the wireless telecommunications needs of campus communities outside of major cities through a service called "CollegeTown PCS."⁴⁰ The service area in *Chasetel* covered the campus of Lincoln Memorial University (LMU) in the Middlesboro, Kentucky BTA. The LMU campus was located in Harrogate, Tennessee, an area that was not close to any major metropolitan city and was separated from the two closest towns – Tazewell, Tennessee and Middlesboro, Kentucky – by mountainous terrain, which inhibited contiguous wireless coverage from those two towns. At the time, there was only one cellular service provider serving the area, and no other PCS providers.⁴¹ In addition, the Middlesboro BTA was both rural and sparsely populated. Specifically, it had a population density of only 75 people per square mile, had no counties with a population over 37,000, and the vast majority of the BTA's population lived in "rural" areas, as set forth by the Census Bureau.⁴²

³⁵ *Cingular*, 16 FCC Rcd at 19204, ¶ 10.

³⁶ *Cingular*, 16 FCC Rcd at 19204, ¶ 10.

³⁷ Letter at 3.

³⁸ *Chasetel Licensee Corp.*; Request for Extension of Broadband PCS Construction Requirements and Construction Notification for Call Sign KNLF468 in Middlesboro-Harlan, KY BTA, *Order*, 17 FCC Rcd 9351 (Commercial Wireless Division 2002) (*Chasetel*).

³⁹ AFR at 7.

⁴⁰ CollegeTown PCS allowed students, faculty, and staff of a university to communicate via PCS mobile phones for a flat fee with no mobile-to-mobile per minute charges. *Chasetel*, 17 FCC Rcd at 9354, ¶ 9.

⁴¹ *Chasetel*, 17 FCC Rcd at 9354-55, ¶ 10.

⁴² *Chasetel*, 17 FCC Rcd at 9355, ¶ 11.

14. Based on the totality of circumstances, the Bureau's former Commercial Wireless Division (CWD) found that Chasetel had met the substantial service benchmark by "providing digital wireless telecommunications services to an area that is likely to be unserved or underserved – specifically, an educational campus in a relatively remote area of a rural market."⁴³ The CWD noted that the Commission had provided the substantial service option to 10 MHz and 15 MHz PCS licensees "so that these licensees could provide service to areas or populations that would not necessarily be served by 30 MHz PCS licensees" and concluded that the LMU campus and its immediate surroundings were the type of area in which the Commission sought to promote service.⁴⁴ In addition, the CWD noted that the service provided by Chasetel met the both statutory goal of ensuring "prompt delivery of [PCS] service to rural areas," and one of the Commission's goals for PCS to "facilitate nationwide services, especially in sparsely populated areas."⁴⁵

15. The instant case is factually distinguishable from *Chasetel*. Here, although Portsmouth is not located near a major metropolitan city, the area Reiter serves is also served by four other wireless providers. Our research indicates that four wireless operators serve the BTA (AT&T Wireless, Ntelos, Sprint, and Verizon Wireless).⁴⁶ In addition, unlike the licensee in *Chasetel*, Reiter's service area is not in a remote area of a rural market; as noted above, Scioto County's population density of 129 persons per square mile does not fall within the Commission's baseline definition of "rural area." Accordingly, we do not find that Reiter has met the requirements for demonstrating substantial service.

16. *Existing Coverage and Actual Service.* Reiter also argues that since PCS licensees can meet the coverage-based component of the construction requirement simply by demonstrating coverage without also having to demonstrate actual service, the Commission should find that he has met the substantial service component because he has demonstrated both some level of coverage (11.4%) and actual service (4 handsets in use). We agree that in certain cases the demonstration of a level of coverage below the construction requirement benchmark when coupled with the provision of actual service can lend some support to a demonstration of substantial service. As discussed above in *Cingular*, for example, the licensee proposed to provide coverage of 30 percent of the population in each license service area (just slightly below the 33 percent population coverage required by the construction requirement) and had 600,000 existing subscribers nationwide with an additional 40,000 subscribers being added each month.⁴⁷ On its own motion, the Division declared that to extent the proposed construction was completed, it would support a demonstration of substantial service. Unlike the licensee in *Cingular*, Reiter has built the barest of systems (a single base station at a single location) which supports very minimal usage (4 handsets). We agree with the Division's finding that such operations do not constitute "service that is sound, favorable, and substantially above a level of mediocre service that would barely warrant renewal."⁴⁸

⁴³ *Chasetel*, 17 FCC Rcd at 9354, ¶ 9.

⁴⁴ *Chasetel*, 17 FCC Rcd at 9354-55, ¶ 10.

⁴⁵ *Chasetel*, 17 FCC Rcd at 9355, ¶ 11.

⁴⁶ See AT&T Coverage Viewer, available at <http://www.wireless.att.com/coverageviewer/#?type=voice&lat=38.7549274074585&lon=-82.9388384753963&sci=10> (last visited Feb. 22, 2010); nTelos Wireless Coverage Locator, available at <https://covloc.ntelos.pb.com/Covloc/Customers/NTELOS/NTELOS.ASPX> (last visited Feb. 22, 2010); Sprint Coverage Tool, available at <http://coverage.sprint.com/IMPACT.jsp?language=EN> (last visited Feb. 22, 2010); Verizon Wireless Coverage Locator, available at <http://www.verizonwireless.com/b2c/CoverageLocatorController> (last visited Feb. 22, 2010). T-Mobile serves BTA 359, but does not provide service in Portsmouth. See T-Mobile Personal Coverage Check, available at <http://www.t-mobile.com/coverage/pcc.aspx> (last visited Feb. 22, 2010).

⁴⁷ *Cingular*, 16 FCC Rcd at 19203, ¶ 8.

⁴⁸ Division Decision at 3.

17. *Private Service.* Finally, Reiter argues that because his service is “a private, internal use of PCS spectrum,” that the substantial service standard should be “very liberal” and “tailored to the licensee’s own reasonable perception of a valid use of the spectrum.”⁴⁹ We note that it was not until after the Division rejected Reiter’s substantial service showing that Reiter determined that his service should be classified as private mobile radio services (PMRS), and we further note that Reiter intends to offer commercial service in the future.⁵⁰ Nonetheless, we do not reach the issue of whether the substantial service standard is different if the service is provided on a private, internal basis because Reiter’s PCS service is not a private, internal service under the Commission’s rules. For regulatory purposes, broadband PCS service is presumed to be commercial mobile radio service (CMRS).⁵¹ If a PCS licensee intends to provide PMRS, section 20.9(b) of the Commission’s rules requires the licensee to overcome this presumption by filing an application to modify its authorization to dedicate a portion of its spectrum for PMRS.⁵² The licensee must file a certification explaining why the proposed service is not CMRS and the application is placed on public notice and subject to petitions to deny.⁵³ Reiter did not file an application to modify his license in order to provide PMRS and thus failed to follow the Commission’s rules regarding the provision of PMRS in PCS spectrum. In addition, we note that, contrary to his assertion, Reiter’s service would not qualify as an internal system under section 90.7 of the Commission’s rules, which defines an internal system as one in which “all messages are transmitted between the fixed operating positions located on premises controlled by the licensee and the associated mobile stations...of the licensee.”⁵⁴ Reiter’s service is interconnected with the public switched telephone network— residents use their mobile phones for interconnected local calling – and thus, by definition, is not an internal system.⁵⁵

18. *Special Temporary Authority.* As discussed above, we agree that the Division appropriately concluded that the level of service provided by Reiter does not rise to the level of substantial service. Nonetheless, the Commission believes that the Shelter should have the opportunity, should it so desire, to transition to another wireless service provider without any unnecessary service disruption. Accordingly, we find that it is in the public interest to *sua sponte* grant Reiter special temporary authority (STA) to continue operations for the lesser of 180 days from the release of this Order, or 60 days following receipt of written notice from a new licensee notifying Reiter that it intends to commence operations (collectively “STA Period”).⁵⁶ In keeping with the requirements it has imposed in similar circumstances, the

⁴⁹ AFR Supplement at 3.

⁵⁰ “Service will eventually be provided on a commercial basis in order to help sustain the important work being done now on an eleemosynary basis.” AFR at 5.

⁵¹ 47 C.F.R. § 20.9(b).

⁵² 47 C.F.R. § 20.9(b).

⁵³ 47 C.F.R. § 20.9(b).

⁵⁴ 47 C.F.R. § 90.7.

⁵⁵ The Commission recognized when it determined that PCS would be presumptively treated as CMRS, “[b]ecause we have concluded that Section 332 requires PMRS to be limited to service available to only a limited group of users in any given service area, or restricted to non-interconnected service, it would be extremely difficult for licensees to meet our build-out requirements on a private basis.” Implementation of Section 3(n) and 332 of the Communications Act Regulatory Treatment of Mobile Services, *Second Report and Order*, 9 FCC Rcd 1411, 1462 ¶ 121 (1994). While we do not reach the merits of Reiter’s argument that he provided substantial service as a PMRS licensee, we note, solely for illustrative purposes, that even if Reiter had complied with the Commission’s procedural rules sufficient to enable evaluation as a PMRS licensee, a single base station with only four operational handsets arguably would have failed to meet the substantial service threshold sufficient to meet the construction requirements for the entire license.

⁵⁶ See 47 C.F.R. § 1.931(a); Instapage Network, Ltd.; Notification of Construction and Request for Waiver for Narrowband PCS Station KNKV222, *Order*, 16 FCC Rcd 14029, 14031, ¶ 7 (Commercial Wireless Division 2001) (continued....)

Commission imposes the following conditions. First, Reiter shall, within five (5) days of the release of this Order, provide written notice to the Shelter (with a copy of such notice forwarded to the Commission) that (1) its license for WPTB505 has been terminated; (2) it is only authorized to provide service under a grant of special temporary authority; (3) it will provide the Shelter with at least 30 days written notice prior to permanently discontinuing service; and (4) the Shelter must make arrangements with another carrier if it would like to continue service at the end of the STA Period. Second, under the limited authority granted, Reiter is not permitted to solicit or add new subscribers in the Portsmouth BTA. Third, under the limited authority granted, Reiter is not permitted to lease any portion of the spectrum assigned to broadband PCS license WPTB505. Fourth, Reiter, shall, as described above, provide written notice to the Shelter at least 30 days prior to permanently discontinuing service.⁵⁷ Finally, after the expiration of the STA Period and any renewals, Reiter will no longer be authorized to provide further service and shall cease any and all operations on broadband PCS station WPTB505.

IV. ORDERING CLAUSES

19. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i), 5(c)(5), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(5), 303(r), and Section 1.115 of the Commission's Rules, 47 C.F.R. § 1.115, the Application for Review filed by Scott D. Reiter on June 8, 2007 and supplemented on July 11, 2007, is DENIED.

20. IT IS FURTHER ORDERED that, pursuant to Section 4(i) and 309(f) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 4(i), 309(f), and Section 1.931(a) of the Commission's rules, 47 C.F.R. § 1.931(a), Special Temporary Authority is GRANTED *sua sponte* to Scott D. Reiter, subject to the terms and conditions set forth herein.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

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(denying waiver of construction deadlines and *sua sponte* granting STA); *see also*, Morris Communications, Inc.; Request for Waiver of Installment Payment Rules and Reinstatement of 900 MHz SMR Licenses, FCC 08-57, *Memorandum Opinion and Order*, 2008 FCC LEXIS 1629, ¶ 51 (2008) (granting STA with conditions following automatic license cancellation for failure to make timely installment payments).

⁵⁷ Reiter shall also provide a copy of such notice to the Commission.